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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,315	10/26/2000	Richard L. Klevans	FNC-0019	4985

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EXAMINER

JONES, PRENELL P

ART UNIT	PAPER NUMBER
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2667

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/674,315

Applicant(s)

KLEVANS, RICHARD L.

Examiner

Prenell P Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-30 and 32-63 is/are allowed.
- 6) ☐ Claim(s) 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. ***The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.*** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Applicant uses the term "disclosed" which is a legal phraseology.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant is claiming an apparatus and method simultaneously, which is indefinite under 112/2d (In Ex Parte Lyell 17 USPQ2d 1548 (Bd. PA & I 1990)).

4. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. Applicant has omitted any/all steps associated with claim 31. The method as indicated in claim 31 contains no steps as to how the "claimed method" is carried out.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Juniper Networks.

Regarding claim 31, Juniper Networks discloses (pgs. 1-3) a Multi-protocol Label Switching standard wherein the MPLS software is implemented on Internet backbone of networks used for traffic engineering, MPLS maintaining router (LSR) communication, Junos' MPLS software is based on a modular architecture associated with an independent operating system, and it is inherent that an Internet network includes display computers, mouse and a keyboard which are interfaces to the Internet.

Allowable Subject Matter

7. Claims 1-30 and 32-63 are allowed over prior art.

8. Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: Although the prior art, Katsube, Nagami et al, Abe et al, Warriar et al, Schuster et al discloses label switching technology associated with an ATM network, wherein the architecture includes ATM-LSR, label distribution protocol, MPLS, multiple routers, IP forwarding table, forwarding IP streams, IP multicast sessions, edge nodes, core nodes, VPI/VCI space accommodate labels, default labels, conventional routers (general purpose), conventional ATM switch, VCID values between neighboring ATM-LSRs, VPI/VCI labels are associated with the general case architecture, label distribution protocol, MPLS is applied to ATM links, identifying ATM virtual circuits, ATM consist PVC/SVC, nodes establish association between VPI/VCI labels and VCID values, downstream/upstream LSR, VCID used for multicast streams, permanent virtual routes/circuits (PVR/PVC), IP/ATM handler, data streams, VPI/VCI parameters, and a network that includes accommodating multi-protocol and multi-vendor communication, wherein the computer equipment/access server includes multi-ports for connection of plurality of multi-cards/expansion slots, performance testing associated with communication among a plurality of nodes, wherein the nodes are communicating in a LAN environment, virtual connections created using quality of service information, virtual connections created between plurality of routers, traffic over VPN, it is suggested that MPLS/LSR is an optional method used for signaling a selected service level for data transmission, and a general purpose computer having an operating system that is designed to run on a version of UNIX known as Linux for utilizing

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distribution/management package software they fail to teach/suggest in an MPLS implementation an operating system kernel is instructed to send IP packets with a destination that matches the IP prefix of the received IP stream to the PVC connection, kernel is instructed to send packets received at the PVC connection at the ATM NIC to an IP input handler, system kernel instructed to send packets received at the first PVC connection to the second PVC connection, non-MPLS ATM network wherein the creation of a SVC using an incoming label to an ATM switch interface connected to a downstream using the outgoing label, program instructions forwarding packet to a non-MPLS downstream router.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P Jones whose telephone number is 703-305-0630. The examiner can normally be reached on 9:00-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 703-305-4378. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Prenell Jones

February 23, 2004


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 *1/23/04*